

IN RE: PETITION FOR SPECIAL EXCEPTION \* BEFORE THE  
N/S Philadelphia Road, 821' E of the c/l  
Joppa Road \* ZONING COMMISSIONER  
**(11130 Philadelphia Road)**  
11<sup>th</sup> Election District \* OF BALTIMORE COUNTY  
5<sup>th</sup> Council District \* Case No. 02-382-X  
Elden E. LeBrun, Sr., et ux, Owners;  
Carolyn J. Eklund, Contract Lessee \*

ORDER ON REQUEST FOR EXTENSION

WHEREAS, this matter came before the Zoning Commissioner for consideration of a Petition for Special Exception filed by the owners of the subject property, Elden E. LeBrun, Sr., and his wife, Geraldine D. LeBrun, and their daughter, Carolyn J. Eklund, through their attorney, Deborah C. Dopkin, Esquire. The Petitioners sought special exception relief to allow a 15-bed Class B Assisted Living Facility on the subject property, in accordance with the site plan entered into evidence as Petitioner's Exhibit 1.

By Opinion and Order dated May 15, 2002, the undersigned granted the request, subject to certain terms and conditions. Pursuant to Section 502.3 of the B.C.Z.R., any special exception granted must be utilized within two years of the date of any final Order granting same; however, an extension of up to five years may be obtained, if requested prior to the expiration of the initial two year period. By letter dated April 19, 2004, Carolyn J. Eklund advised that although the building permit stage was entered into last December 2003, the Petitioners did not anticipate having all required permits by the current expiration date. Thus, the Petitioners request an extension of an additional three years, or until May 15, 2007.

Section 502.3 of the B.C.Z.R. provides that the Zoning Commissioner at any time prior to the expiration of the period of time authorized for its utilization may grant an extension of the special exception. Although that language does not provide that special hearing relief need be requested, the filing of a Petition for Special Hearing to approve such an extension has been the practice of the Department of Permits and Development Management over the years. In that this matter has been considered twice before the Zoning Commissioner's Office, and there have been

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Date

By

no opponents at the prior hearings, an additional hearing is neither appropriate nor warranted. However, in order to afford public notice, the property was posted with a sign giving public notice of the Petitioners' request for extension of the special exception, similar to the language used for administrative variance requests. It was determined that if no formal demand for public hearing was made within 15 days of the posting, then an Order granting the extension would be issued. In this regard, the Department of Permits and Development Management arranged for the posting of the property, which occurred on April 26, 2004, and the sign remained on the property as of June 11, 2004. In that there has been no formal demand for public hearing, an Order granting the requested extension follows.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 11th day of June 2004 that the special exception relief granted in the above-captioned matter on May 15, 2002 be and is hereby extended an additional three years to May 15, 2007.

IT IS FURTHER ORDERED that all other terms and conditions contained within the Order issued on May 15, 2002 shall remain in full force and effect.

  
LAWRENCE E. SCHMIDT  
Zoning Commissioner  
for Baltimore County

LES:bjs

cc: Ms. Carolyn J. Eklund, 3306 Greenton Avenue, Baltimore, Md. 21214  
Mr. Kenneth McDonald, Engineering Access Permits Div., SHA,  
P.O. Box 717, Baltimore, Md. 21203-0717  
Mr. Larry Outten, 11134 Philadelphia Road, White Marsh, Md. 21162  
Mr. Stephen Martin, 5423 E. Joppa Road, Perry Hall, Md. 21128  
Site Rite Surveying, Inc., 200 E. Joppa Road, Towson, Md. 21286  
People's Counsel; DEPRM; OP; Case File

ORDER RECEIVED FOR FILING

Date 6/11/04

By [Signature]

IN RE: PETITION FOR SPECIAL EXCEPTION  
N/S Philadelphia Road, 821' E of the c/I  
Joppa Road  
(11130 Philadelphia Road)  
11<sup>th</sup> Election District  
5<sup>th</sup> Council District

Elden E. LeBrun, Sr., et ux, Owners;  
Carolyn J. Eklund, Contract Lessee

\* BEFORE THE  
\* ZONING COMMISSIONER  
\* OF BALTIMORE COUNTY  
\* Case No. 02-382-X  
\*

ORDER ON REQUEST FOR EXTENSION

WHEREAS, this matter came before the Zoning Commissioner for consideration of a Petition for Special Exception filed by the owners of the subject property, Elden E. LeBrun, Sr., and his wife, Geraldine D. LeBrun, and their daughter, Carolyn J. Eklund, through their attorney, Deborah C. Dopkin, Esquire. The Petitioners sought special exception relief to allow a 15-bed Class B Assisted Living Facility on the subject property, in accordance with the site plan entered into evidence as Petitioner's Exhibit 1.

By Opinion and Order dated May 15, 2002, I granted the request, subject to certain terms and conditions. Pursuant to Section 502.3 of the B.C.Z.R., any special exception granted must be utilized within two years of the date of any final Order granting same; however, an extension of up to five years may be obtained, if requested prior to the expiration of the initial two year period. By letter dated April 19, 2004, Carolyn J. Eklund advised that although the building permit stage was entered into last December 2003, they did not anticipate having all required permits by the current expiration date. Thus, the Petitioners request an extension of an additional three years, or until May 15, 2007.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this \_\_\_\_ day of April 2004 that the special exception relief granted in the above-captioned matter on May 15, 2002 be and is hereby extended an additional three years to May 15, 2007.

IT IS FURTHER ORDERED that all other terms and conditions contained within the Order issued on May 15, 2002 shall remain in full force and effect.

\_\_\_\_\_  
LAWRENCE E. SCHMIDT  
Zoning Commissioner  
for Baltimore County

LES:bjs

cc: Ms. Carolyn J. Eklund, 3306 Greenton Avenue, Baltimore, Md. 21214  
Mr. Kenneth McDonald, Engineering Access Permits Div., SHA, P.O. Box 717, Baltimore, Md. 21203-0717  
Mr. Larry Outten, 11134 Philadelphia Road, White Marsh, Md. 21162  
Mr. Stephen Martin, 5423 E. Joppa Road, Perry Hall, Md. 21128  
Site Rite Surveying, Inc., 200 E. Joppa Road, Towson, Md. 21286  
People's Counsel; DEPRM; OP; Case File

IN RE: PETITION FOR SPECIAL EXCEPTION \* BEFORE THE  
N/S Philadelphia Road, 821' E of the c/l \*  
Joppa Road \* ZONING COMMISSIONER  
(11130 Philadelphia Road) \*  
11<sup>th</sup> Election District \* OF BALTIMORE COUNTY  
5<sup>th</sup> Council District \*  
Case No. 02-382-X  
Elden E. LeBrun, Sr., et ux, Owners; \*  
Carolyn J. Eklund, Contract Lessee \*

\* \* \* \* \*

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Exception filed by the owners of the subject property, Elden E. LeBrun, Sr., and his wife, Geraldine D. LeBrun, and their daughter, Carolyn J. Eklund, Contract Purchaser/Lessee, through their attorney, Deborah C. Dopkin, Esquire. The Petitioners request a special exception to allow a 15-bed Class B Assisted Living Facility in a newly constructed building on the subject property, in accordance with the site plan submitted and marked into evidence as Petitioner's Exhibit 1.

Appearing at the requisite public hearing were Elden E. LeBrun, Sr. and his wife, Geraldine D. LeBrun, their daughter, Carolyn J. Eklund, the proprietor of the proposed Assisted Living Facility, Steven Martin, a neighbor, and Deborah C. Dopkin, Esquire, attorney for the Petitioners. There were no Protestants or other interested persons present.

Testimony and evidence presented in this case revealed that the subject property is an irregular-shaped parcel located on the northwest side of Philadelphia Road, just east of Joppa Road in the Honeygo District of White Marsh. The property contains a gross area of 3.53 acres, more or less, zoned D.R.2H and is improved with a two-story frame dwelling in which Mr. & Mrs. LeBrun reside. The property also features a patio to the rear that connects to a one-story detached garage and shed. It was indicated that the shed will be razed and an addition constructed onto the existing garage to essentially double its current size. Presently, vehicular access to the site is by way of a private drive known as Dunrovin Lane, which is located along the northeastern property line. In

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Date 5/15/02  
By K. J. J.

addition to the subject property, this driveway also provides access to two adjacent lots, namely 11134 Philadelphia Road (Larry B. and Mary F. Outten), and 11136 Philadelphia Road (Anna Marie Schueler). The Petitioners propose to construct a separate building on the subject property and establishing a Class B Assisted Living Facility therein for up to 15 individuals. Interestingly, the Petitioners requested similar special exception relief under prior Case No. 99-42-X. In that case, the undersigned Zoning Commissioner granted approval for a 12-bed Class B Assisted Living Facility on October 20, 1998, subject to certain restrictions. Section 502.3 of the B.C.Z.R. requires that any approved special exception be utilized within two years from the date of the grant. In this case, the special exception previously approved was not utilized and thus, expired. Therefore, the Petitioners filed the instant request.

Assisted Living Facilities are defined in Section 101 of the Baltimore County Zoning Regulations (B.C.Z.R.) as "Any building or section of a building which provides a residential environment for senior citizens 62 years of age or older who require assistance with one or more of the essential activities of daily living." The definition further provides that the facility must be certified or licensed by the Maryland Office on Aging or as otherwise required by the Code of Maryland regulations. A Class B Assisted Living Facility is located... Moreover, assisted living facilities are regulated pursuant to the provisions set forth in Section 432 of the B.C.Z.R.

As noted above, the Petitioners obtained similar approval under prior Case No. 99-42-X. Essentially, the current request is the same as before; however, there are certain changes which need be noted. First, in the prior case, the Petitioners proposed constructing a new building that would be attached to the existing dwelling and access provided thereto via the existing driveway off of Dunrovin Lane. The Petitioners now propose constructing a two-story freestanding building, as shown on the site plan and in building elevation drawings submitted at the hearing (Petitioner's Exhibits 3A – 3C). In this regard, although the lot is not being subdivided, the plan shows a zoning use division line that divides the property into two separate areas for the single family dwelling and assisted living facility. It is also to be noted that the new building will be designed to be residential in appearance.

5/15/12  
[Signature]

Secondly, the new proposal will accommodate slightly more individuals than previously approved. The prior request was for a 12-bed facility and the new proposal will serve up to 15 individuals. In this regard, the Petitioners indicated that the new facility will have 8 bedrooms that may be occupied on a single or double basis; however a maximum of 15 residents is proposed.

A third difference to the plan relates to vehicular access to the site. Under the original proposal, the existing shared driveway known as Dunrovin Lane was to be utilized to provide access. As noted above, that driveway provides access to three separate properties, namely the subject property, and the properties known as 11134 and 11136 Philadelphia Road. As noted in the prior opinion, there was some concern expressed by Mr. Outten regarding the use of that driveway and whether same could accommodate the anticipated increased volumes of traffic. Under the present proposal, the Petitioners will eliminate the extension of that driveway into their property and propose a new means of access by one of two alternatives shown on the plan. The first alternative calls for the construction of a new driveway in the center of the property, which will lead to a T-intersection at Philadelphia Road. This is not the preferred means of access. Specifically, it was indicated that the frontage of the property along Philadelphia Road peaks at a hill, which limits sight distance at this location. Apparently, the State Highway Administration (SHA) does not prefer this access; however, same can be installed if no other alternatives are possible. In that event, the Petitioner would be required to install an acceleration/deceleration lane to improve sight distance and provide better access.

The second proposal is to construct a new driveway that will access Philadelphia Road from an adjacent property on the southwest side of the subject site, which is owned by Donenico and Gina Parravano. The plan shows that a driveway will be constructed from the proposed improvements across the front of the subject property and into the property owned by Mr. & Mrs. Parravano. The driveway would actually cross over the Parravano driveway and then access Philadelphia Road at a location where the road is less narrow and there is better sight distance. This means of access is the preferred alternative.

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Date

By

But for these three changes, the plan is generally the same as before. It is also to be noted that the project previously received D.R.C. approval for a limited exemption from the development regulations. There were no Protestants at the hearing and a favorable Zoning Advisory Committee comment was received from the Office of Planning. Based upon the testimony and evidence presented, I am persuaded to grant the requested relief. I find that the Petitioners have met the requirements of Section 502.1 of the B.C.Z.R. Specifically, given the size of the property and character of the area, there is no evidence that the proposal will be detrimental to the health, safety or general welfare of the locale. I particularly note the significant amount of vegetation that exists around the perimeter of the property that will buffer the use. The fact that the proposed building will also maintain a residential character is also persuasive.

However, in granting the relief, I will impose certain restrictions. First, the Petitioners will cooperate with the SHA regarding the access. Efforts should be made to pursue the alternative shown by the construction of a driveway onto the adjacent property owned by Mr. & Mrs. Parravano. However, if the rights-of-way cannot be secured, then the Petitioners' proposal to directly access Philadelphia Road shall be permitted, subject to the requirements of SHA. Specifically, an acceleration/deceleration lane need be installed and other improvements as set out in the ZAC comments submitted by the SHA, dated March 27, 2002. In any event, a highway widening dedication will be required for either alternative. As a condition precedent to approval, I will incorporate the terms and conditions set forth in that comment. Secondly, although the property is served by public water, it is on a private septic system. The ZAC comment submitted by the Department of Environmental Protection and Resource Management (DEPRM) indicated that pre-treatment of sewage waste may be required. Thus, the Petitioner is directed to contact the Ground Water Management Division of DEPRM for review and approval of its proposal. Finally, the facility shall be limited to housing a maximum of 15 senior citizens and the Petitioner shall meet all relevant building, fire, health, and safety codes.

Pursuant to the advertisement, posting of the property and public hearing on this Petition held and for the reasons set forth herein, the relief requested shall be granted.

ORDER RECORDED FOR FILING  
1016  
5/15/02  
BY

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 15<sup>th</sup> day of May, 2002 that the Petition for Special Exception to allow a Class B Assisted Living Facility in a newly constructed building on the subject property, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.
- 2) The special exception relief granted herein is limited to a 15-bed Class B Assisted Living Facility. The proposed building shall be constructed substantially in accordance with the site plan marked as Petitioner's Exhibit 1, and the building elevation drawings marked as Petitioner's Exhibits 3A through 3D.
- 3) Compliance with the ZAC comments submitted by the State Highway Administration, dated March 27, 2002, a copy of which is attached hereto and made a part hereof.
- 4) The Petitioners shall contact the Ground Water Management Division of DEPRM and obtain approval of its proposal prior to the issuance of any use and occupancy permits.
- 5) Compliance with all other building, fire, health and safety codes.
- 6) When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.



LAWRENCE E. SCHMIDT  
Zoning Commissioner  
for Baltimore County

ORDER RECEIVED FOR FILING  
Date 5/15/02  
By [Signature]  
LES:bjs





Baltimore County  
Zoning Commissioner

Suite 405, County Courts Bldg.  
401 Bosley Avenue  
Towson, Maryland 21204  
410-887-4386  
Fax: 410-887-3468

May 15, 2002

Deborah C. Dopkin, Esquire  
409 Washington Avenue, Suite 920  
Towson, Maryland 21204

RE: PETITION FOR SPECIAL EXCEPTION  
N/S Philadelphia Road, 821' E of the c/l Joppa Road  
(11130 Philadelphia Road)  
11th Election District – 5th Council District  
Elden E. LeBrun, Sr., et ux, and Carolyn J. Eklund, Contract Lessee - Petitioners  
Case No. 02-382-X

Dear Ms. Dopkin:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Exception has been granted, in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Department of Permits and Development Management office at 887-3391.

Very truly yours,

A handwritten signature in black ink, appearing to read "Lawrence E. Schmidt", is written over the typed name.

LAWRENCE E. SCHMIDT  
Zoning Commissioner  
for Baltimore County

LES:bjs

cc: Mr. & Mrs. Elden E. LeBrun, Sr.  
11130 Philadelphia Road, White Marsh, Md. 21162  
Ms. Carolyn J. Eklund, 3306 Greenton Avenue, Baltimore, Md. 21214  
Mr. Kenneth McDonald, Engineering Access Permits Division,  
SHA, P.O. Box 717, Baltimore, Md. 21203-0717  
Mr. Larry Outten, 11134 Philadelphia Road, White Marsh, Md. 21162  
Mr. Stephen Martin, 5423 E. Joppa Road, Perry Hall, Md. 21128  
Site Rite Surveying, Inc., 200 E. Joppa Road, Towson, Md. 21286  
People's Counsel; DEPRM; OP; Case File



# Petition for Special Exception

## to the Zoning Commissioner of Baltimore County

for the property located at 11130 Philadelphia Rd.

which is presently zoned DR 2H

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for

a 15 bed, Class B Assisted Living Facility

Property is to be posted and advertised as prescribed by the zoning regulations.

I, or we, agree to pay expenses of above Special Exception, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

### Contract Purchaser/Lessee:

Carolyn J. Eklund

Name - Type or Print

*Carolyn J. Eklund*

Signature

3306 Grenton Ave.

410-444-7562

Address

Telephone No.

Baltimore, MD 21214

City

State

Zip Code

### Attorney For Petitioner:

Deborah C. Dopkin

Name - Type or Print

*Deborah C. Dopkin*

Signature

Law Office of Deborah C. Dopkin, P.A.

Company

409 Washington Ave., Suite 920 410-494-8080

296-5120

Address

Telephone No.

Towson, MD 21204

City

State

Zip Code

### Legal Owner(s):

Elden E. LeBrun, Sr.

Name - Type or Print

*Elden E. LeBrun Sr*

Signature

Geraldine D. LeBrun

Name - Type or Print

*Geraldine D. LeBrun*

Signature

11130 Philadelphia Rd.

410-335-6693

Address

Telephone No.

White Marsh, MD 21162

City

State

Zip Code

### Representative to be Contacted:

Carolyn J. Eklund

Name

Baltimore, MD 21214

410-444-7562

Address

Telephone No.

3306 Grenton Ave.

City

State

Zip Code

### OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING \_\_\_\_\_

UNAVAILABLE FOR HEARING \_\_\_\_\_

Reviewed By CTM

Date 3/12/02

Case No. 02-382-X

220 09/15/98

ORDER RECEIVED FOR FILING

Date

By

*ZONING DESCRIPTION FOR #11130 PHILADELPHIA ROAD*

*Beginning at a point on the north side of Philadelphia Road, 80 feet wide, at a distance of 821 feet to the east side of Joppa Road; thence eastward along the center of Philadelphia Road N 36 degrees 30 minutes E, 186.82 feet to the west side of Dunrovin Lane, 35 feet wide; thence N 53 degrees 30 minutes W, 400.00 feet; thence S 36 degrees 30 minutes W, 188.00 feet and thence S 53 degrees 40 minutes 07 seconds E, 400.00 feet to the centerline of Philadelphia Road and to the place of beginning. Containing 1.721 Acres of land, more or less. Being part of the land described in the Baltimore County Land Records in Liber 7541, folio 672. Also known as #11130 Philadelphia Road and located in the 11th. Election District, 5th. Councilmanic District.*



*J. Tilghman Downey, Jr.*

*Site Rite Surveying, Inc.  
200 E. Joppa Road  
Suite 101  
Towson, MD 21286  
(410)828-9060*

**NOTICE OF ZONING  
HEARING**

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: #02-382-X  
11130 Philadelphia Road  
NWS of Philadelphia Road,  
821' +/- NE centerline of  
Cowenton Road;  
11th Election District  
5th Councilmanic District  
Legal Owner(s): Elden E.  
LeBrun, Sr. & Geraldine D.  
LeBrun  
Contract Purchaser: Carolyn  
J. Eklund  
Special Exception: for a class  
B Assisted Living Facility.  
Hearing: Wednesday, May  
8, 2002 at 2:00 p.m. in  
Room 407, County Courts  
Building, 401 Bosley Ave-  
nue.

LAWRENCE E. SCHMIDT  
Zoning Commissioner for  
Baltimore County

NOTES: (1) Hearings are  
Handicapped Accessible; for  
special accommodations  
Please Contact the Zoning  
Commissioner's Office at  
(410) 887-4386.

(2) For information con-  
cerning the File, and/or  
Hearing, Contact the Zoning  
Review Office at (410) 887-  
3391.

JT/4/52-Apr23 0534112

# CERTIFICATE OF PUBLICATION

4/25/2002

THIS IS TO CERTIFY, that the annexed advertisement was published  
in the following weekly newspaper published in Baltimore County, Md.,  
once in each of 1 successive weeks, the first publication appearing  
on 4/23/2002.

☒ The Jeffersonian

☐ Arbutus Times


☐ Catonsville Times

☐ Towson Times

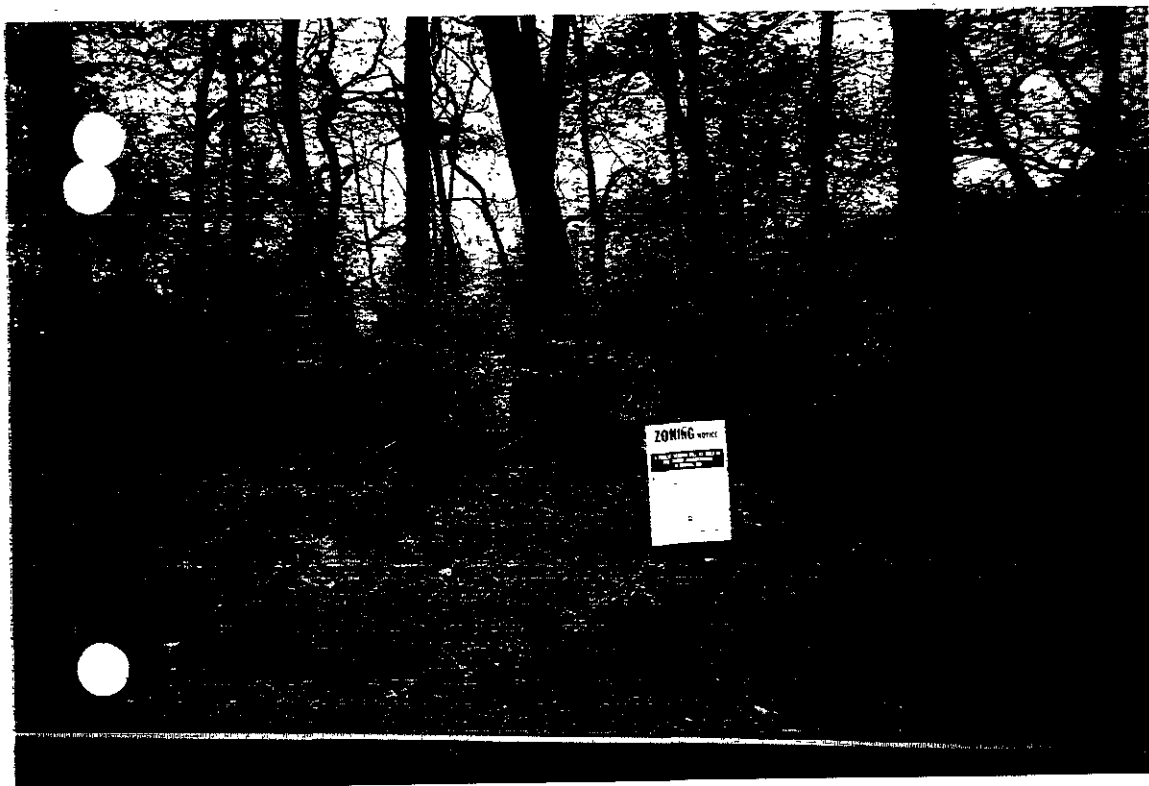
☐ Owings Mills Times

☐ NE Booster/Reporter

☐ North County News



LEGAL ADVERTISING

[illegible]

# CERTIFICATE OF POSTING

RE: Case No.: 02-382-X

Petitioner/Developer: \_\_\_\_\_

CAROLYN J. EKLUND

Date of Hearing/Closing: MAY 8, 2002

Baltimore County Department of  
Permits and Development Management  
County Office Building, Room 111  
111 West Chesapeake Avenue  
Towson, MD 21204

Attention: Ms. Gwendolyn Stephens

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law  
were posted conspicuously on the property located at \_\_\_\_\_

#11130 PHILADELPHIA ROAD

The sign(s) were posted on APRIL 19TH 2002  
( Month, Day, Year)

Sincerely,

Garland E. Moore  
(Signature of Sign Poster and Date)

GARLAND E. MOORE  
(Printed Name)

3225 RYERSON CIRCLE  
(Address)

BALTIMORE, MD. 21227  
(City, State, Zip Code)

(410) 242-4263  
(Telephone Number)

**DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT  
ZONING REVIEW**

**ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS**

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighbor property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

**OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.**

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**For Newspaper Advertising:**

Item Number or Case Number: 02-382 X

Petitioner: E.E. LeBrun / Carolyn J. Eklund

Address or Location: ~~3306~~ ~~Gre~~ 11130 Philadelphia Road

**PLEASE FORWARD ADVERTISING BILL TO:**

Name: Carolyn J. Eklund

Address: 3306 GRENTON AVE  
BALTO MD 21214

Telephone Number: 410 444-7562

Revised 2/20/98 - SCJ

TO: PATUXENT PUBLISHING COMPANY  
Tuesday, April 23, 2002 Issue – Jeffersonian

Please forward billing to:  
Carolyn J Eklund  
3306 Greenton Avenue  
Baltimore MD 21214

410 444-7562

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## NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 02-382-X  
11130 Philadelphia Road  
NW/S of Philadelphia Road, 821' +/- NE centerline of Cowenton Road  
11<sup>th</sup> Election District – 5<sup>th</sup> Councilmanic District  
Legal Owner: Elden E LeBrun Sr & Geraldine D LeBrun  
Contract Purchaser: Carolyn J Eklund

Special Exception for a class B Assisted Living Facility.

HEARING: Wednesday, May 8, 2002 at 2:00 p.m. in Room 407, County Courts Building, 401 Bosley Avenue



Lawrence E. Schmidt

LAWRENCE E. SCHMIDT GDR  
ZONING COMMISSIONER FOR BALTIMORE COUNTY

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.  
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.





Baltimore County  
Department of Permits and  
Development Management

Director's Office  
County Office Building  
111 West Chesapeake Avenue  
Towson, Maryland 21204  
410-887-3353  
Fax: 410-887-5708

April 5, 2002

## NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 02-382-X

11130 Philadelphia Road

NW/S of Philadelphia Road, 821' +/- NE centerline of Cowenton Road

11<sup>th</sup> Election District – 5<sup>th</sup> Councilmanic District

Legal Owner: Elden E LeBrun Sr & Geraldine D LeBrun

Contract Purchaser: Carolyn J Eklund

Special Exception for a class B Assisted Living Facility.

HEARING: Wednesday, May 8, 2002 at 2:00 p.m. in Room 407, County Courts Building, 401 Bosley Avenue

A handwritten signature in black ink, appearing to read "Arnold Jablon".

Arnold Jablon GJZ  
Director

C: Deborah C Dopkin, 409 Washington Avenue, Suite 920, Towson 21204  
Geraldine & Elden LeBrun Sr, 11130 Philadelphia Road, White Marsh 21162  
Carolyn J Eklund, 3306 Grenton Avenue, Baltimore 21214

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, APRIL 23, 2002**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.





Baltimore County  
Department of Permits and  
Development Management

Development Processing  
County Office Building  
111 West Chesapeake Avenue  
Towson, Maryland 21204  
pdmlandacq@co.ba.md.us

May 3, 2002

Deborah C. Dopkin, P.A.  
409 Washington Avenue  
Suite 920  
Towson, MD 21214

Dear Ms. Dopkin:

RE: Case Number: 02-382-X, 11130 Philadelphia Rd.

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on 3/12/02.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

A handwritten signature in cursive script, reading "W. Carl Richards, Jr.".

W. Carl Richards, Jr.  
Supervisor, Zoning Review

WCR:rjc  
Enclosures

c: Elden E. LeBrun, Sr. & Geraldine D. LeBrun 11130 Philadelphia Rd.  
White Marsh 21162  
Carolyn J. Eklund 3306 Grenton Avenue Baltimore 21214  
People's Counsel

Come visit the County's Website at [www.co.ba.md.us](http://www.co.ba.md.us)





Baltimore County  
Fire Department  
Department of Permits and  
Development Management (PDM)  
County Office Building, Room 111  
Mail Stop #1105  
111 West Chesapeake Avenue  
Towson, Maryland 21204

Office of the Fire Marshal  
700 East Joppa Road  
Towson, Maryland 21286-5500  
410-887-4880

ATTENTION: George Zahner

RE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF March 25, 2002

Item No.: 382

Dear Mr. Zahner:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

REVIEWER: LIEUTENANT JIM MEZICK, Fire Marshal's Office  
PHONE 887-4881, MS-1102F

cc: File

COUNTY REVIEW GROUP MEETING{PRIVATE }

### County Review Group comments

1. The fire marshal's office has no comments at this time.

Come visit the County's Website at [www.co.ba.md.us](http://www.co.ba.md.us)



BALTIMORE COUNTY, MARYLAND  
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Arnold Jablon  
FROM: R. Bruce Seeley *285 / 176T*  
DATE: April 30, 2002  
SUBJECT: Zoning Item 382  
Address 11130 Philadelphia Road

Zoning Advisory Committee Meeting of 3/25/02

**GROUND WATER MANAGEMENT**

Pretreatment of sewage wastes may be required. Contact Rob Powell of GWM.

Reviewer: Sue Farinetti

Date: 4/18/02

Kip  
5/8

# BALTIMORE COUNTY, MARYLAND

## INTER-OFFICE CORRESPONDENCE

**TO:** Arnold Jablon, Director  
Department of Permits and  
Development Management

**DATE:** April 1, 2002

**FROM:** Arnold F. 'Pat' Keller, III  
Director, Office of Planning

APR 2

**SUBJECT:** 11130 Philadelphia Road

### INFORMATION:

**Item Number:** 02-382

**Petitioner:** Elden E. LeBrun, Sr.

**Zoning:** DR 2H

**Requested Action:** Special Exception

### SUMMARY OF RECOMMENDATIONS:

The Office of Planning supports the petitioner's request to allow a 15 bed Class B assisted living facility at the subject site.

**Prepared by:** Mark A. Cunningham

**Section Chief:** Arnold F. Keller, III

AFK/LL:MAC:



**Maryland Department of Transportation**  
**State Highway Administration**

Parris N. Glendening  
Governor

John D. Porcari  
Secretary

Parker F. Williams  
Administrator

Date: March 27, 2002

Mr. George Zahner  
Baltimore County Office of  
Permits and Development Management  
County Office Building, Room 109  
Towson, Maryland 21204

RE: Baltimore County  
Item No. 382 (LTM)  
MD 7  
Philadelphia Rd.  
Mile Post 8.23

Dear Mr. Zahner:

This office has reviewed the referenced Item and has no objection to approval to the Special Exception.


However we will require the owner to obtain an access permit and as a minimum the following will be required:

- Highway widening dedication to an ultimate 80' right-of-way.
- 15' wide deceleration lane from the proposed driveway (Plan #1) to the existing driveway for the property at 11134 and 11136 Philadelphia Rd.
- 15' wide, 25' long acceleration lane.
- 25' wide entrance, with a landing grade of 3% for 50', with 20' curbed radii and 10' curbed tangent sections along MD 7.

Please have their representative contact this office regarding the roadway improvements conditioned to the permit.

Should any additional information be required please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,

  
*for*

Kenneth A. McDonald Jr., Chief  
Engineering Access Permits Division

My telephone number is \_\_\_\_\_

Maryland Relay Service for Impaired Hearing or Speech  
1-800-735-2258 Statewide Toll Free

**Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717**  
**Street Address: 707 North Calvert Street • Baltimore, Maryland 21202**

RE: PETITION FOR SPECIAL EXCEPTION  
11130 Philadelphia Road, NW/S Phila Rd,  
821' +/- NE of c/I Cowenton Rd  
11th Election District, 5th Councilmanic

Legal Owner: Elden E. & Geraldine D. LeBrun  
Contract Purchaser: Carolyn J. Eklund  
Petitioner(s)

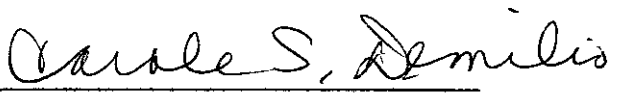
\* BEFORE THE  
\* ZONING COMMISSIONER  
\* FOR  
\* BALTIMORE COUNTY  
\* Case No. 02-382-X

\* \* \* \* \*

**ENTRY OF APPEARANCE**

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent/ documentation filed in the case.

  
PETER MAX ZIMMERMAN  
People's Counsel for Baltimore County

  
CAROLE S. DEMILIO  
Deputy People's Counsel  
Old Courthouse, Room 47  
400 Washington Avenue  
Towson, MD 21204  
(410) 887-2188

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 27<sup>th</sup> day of March, 2002 a copy of the foregoing Entry of Appearance was mailed to Deborah C. Dopkin, Esq., 409 Washington Avenue, Suite 920, Towson, MD 21204, attorney for Petitioner(s).

  
PETER MAX ZIMMERMAN

**BALTIMORE COUNTY, MARYLAND**

Inter-Office Correspondence

**TO:** W. Carl Richards, Jr., Supervisor  
Zoning Review Division  
Department of Permits & Development Management

**DATE:** April 22, 2004

**FROM:** Lawrence E. Schmidt  
Zoning Commissioner



**SUBJECT:** PETITION FOR SPECIAL EXCEPTION  
**(11130 Philadelphia Road)**  
Case No. 02-382-X

Pursuant to our recent telephone conversation concerning the above-captioned matter, attached please find a copy of the Opinion and Order issued by me in Case No. 02-382-X.

By way of background, the Petitioners initially obtained special exception approval for a 12-bed Class B Assisted Living Facility under Case No. 99-042-X on October 20, 1998. Pursuant to Section 502.3 of the B.C.Z.R., that approval expired on October 20, 2000. Subsequently, the Petitioners filed for a new special exception under Case No. 02-382-X. The proposal was substantially similar to the request in the prior case; however, the number of individual residents was increased from 12 to 15. There were also certain changes as to the building and access thereto. Special exception relief was granted in that case on May 15, 2002. There was no request at that time to extend the period of validity to utilize the special exception. Thus, the special exception is due to expire on May 15, 2004.

By letter dated April 19, 2004, the Petitioners have requested an extension of an additional three years. Section 502.3 of the B.C.Z.R. provides that the Zoning Commissioner at any time prior to the expiration of the period of time authorized for its utilization may grant an extension of the special exception. That language does not provide that special hearing relief need be requested; however, the filing of a Petition for Special Hearing to approve such an extension has been the practice over the years. Given that this matter has been considered twice and there have been no opponents at the prior hearings, I am inclined to not require an additional hearing. Pursuant to our discussion, it is my understanding that you will arrange for the posting of the property with a sign by a County employee giving notice to the public of the requested extension. The language will be similar to that used for administrative variance requests which provides that any property owner residing within 1,000 feet of the property in question has 15 days from the date of the sign posting to demand a public hearing to determine the merits of the request. If a formal demand is made, then the matter will be scheduled for a public hearing; however, if no hearing is requested, then I will render an Order granting the extension.

Thank you for your assistance in this matter.

LES:bjs

cc: Ms. Carolyn Eklund  
3306 Grenton Avenue, Baltimore, Md. 21214  
File



RECEIVED

APR 21 2004

Carolyn J. Eklund  
3306 Greenton Ave.  
Baltimore, MD 21214

ZONING COMMISSIONER

Lawrence E. Schmidt  
Zoning Commissioner for Baltimore County  
401 Bosley Ave. Room 405  
Towson, MD 21286

April 19, 2004

Dear Sir;

Pursuant to our telephone conversation this morning relating to Case No. 02-382-X, I am formally requesting that the expiration date be extended to 2007 as allowed by Baltimore County Zoning Regulations 502.3.

Planning for the Assisted Living project has been an ongoing process and the Building Permit stage was entered last December. I am reluctant to believe that all of the needed permits will be in hand by the original May 15, 2004 expiration date.

Thank you for your attention to this matter.

Sincerely,



Carolyn J. Eklund

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME  
Carolyn J. Eklund  
SITE RITE SURVEYING, INC.

Deborah Dgkin  
Stephen Martin

Eldon & Lebrun

Sealdine

ADDRESS  
3306 Greenton Ave. 21214  
200 E. Joppa Rd. Towson, Mo 21286  
409 Washington Ave  
5423 E. Joppa Perry Hall 21128



IN RE: PETITION FOR SPECIAL EXCEPTION \* BEFORE THE  
NS of Philadelphia Road, 723 ft.  
E of Joppa Road \* ZONING COMMISSIONER  
11130 Philadelphia Road  
11th Election District \* OF BALTIMORE COUNTY  
5th Councilmanic District  
Legal Owners:Elden LeBrun, et ux \* Case No. 99-42-X  
Contract Purchaser: Carolyn  
J. Eklund, Petitioners

\* \* \* \* \*

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Exception for the property located at 11130 Philadelphia Road, in the Honeygo district of the White Marsh community. The Petition was filed by Elden E. LeBrun and Geraldine D. LeBrun, property owners, and Carolyn J. Eklund, their daughter, Contract Purchaser/Lessee. Special exception approval is requested for a Class B Assisted Living Facility for the elderly, to provide 12 beds in a newly constructed building which will adjoin an existing single family dwelling on a 3.5 acre lot. The subject property and requested relief are more particularly shown on Petitioners' Exh. 4, the plan to accompany the Petition for Special Exception.

Appearing at the public hearing held for this case were Elden E. LeBrun and Geraldine D. LeBrun, his wife, property owners. Their daughter, Carolyn J. Eklund, was also present. Mrs. Eklund will be the proprietor of the proposed Assisted Living Facility. Larry Outten, a neighbor, appeared as an interested person. The Petitioners were represented by Richard W. Moore, Esquire. There were no Protestants present.

Assisted Living Facilities are defined within Section 101 of the Baltimore County Zoning Regulations (BCZR). That section states that an Assisted Living Facility is any building or section of a building which provides a residential environment for senior citizens 62 years of age or older who require assistance with one or more of the essential activities of daily living. That definition further requires that the facility must

be certified or licensed by the Maryland Office on Aging or as otherwise required by the Code of Maryland Regulations. A Class B Assisted Living Facility is located in a new building constructed for that purpose or in an older building which has been enlarged or accommodated by at least 25% of the ground floor area.

Assisted Living Facilities are permitted only by special exception in a D.R. zone, pursuant to Section 1B01.1.C(26). Moreover, Assisted Living Facilities are regulated pursuant to the provisions set forth in Section 432 of the BCZR.

Testimony and evidence presented in this case was that the subject property is approximately 3.5 acres in area, zoned D.R.2H. As noted above, the property's frontage is located along Philadelphia Road in the Honeygo district of the White Marsh community. Presently, the property is improved with a two story framed single family dwelling in which Mr. and Mrs. LeBrun reside. The property also features a patio and there is a detached garage and a shed. Presently, the property is used for strictly residential purposes. Vehicular access to the property is currently provided by a driveway which serves this and adjacent properties known as Dunroyin Lane.

Mrs. Eklund testified at the hearing and indicated that she is the daughter of the property owners, Mr. and Mrs. LeBrun. She proposes constructing a substantially sized addition to the existing dwelling. The addition will, in appearance, be a new building and will measure approximately 86 ft. and 58 ft. in depth. A schematic elevation drawing (Petitioners' Exhibit No. 2) was submitted at the hearing which shows the proposed building, as was a floor plan (Petitioners' Exhibit No. 3.

Mrs. Eklund testified that she anticipates providing living quarters for up to 12 seniors. These will be individuals who are at least 62 years of age and are in need of assistance with one of the essential activities

of daily living. The proposal is not for a nursing home and there will be no nursing care services. In this regard, the Petitioner indicated that she expected to employ approximately 3 persons during the day, 2 during an evening shift and 1 on an overnight basis. Additionally, she will continue to reside in the existing dwelling, thus, she will be on the premises at all times. There will be communal dining and the facility will be designed to be residential in appearance and operation.

Mr. Outten was the sole individual who appeared as an interested citizen in the community. He resides immediately next door. He indicated that he does not oppose the Petition but was concerned about two issues. Specifically, he voiced opposition to the continued use of Dunroyin Lane to provide access to the proposed facility in that site he believes that additional traffic caused by the facility will over burden that small driveway. He supports the construction of a new driveway leading directly to the interior of the property from Philadelphia Road. Apparently, this concept is also endorsed by the State Highway Administration. Second, Mr. Outten expressed concerns over increased areas of impervious surface on the property and potential storm water runoff onto his property. The grade of the subject site, however, appears to mitigate this potential problem.

Although only Mr. Outten appeared from the community, there were significant Zoning Plans Advisory Committee (ZAC) comments received. The State Highway Administration's comment states that the existing driveway is not an appropriate means of access to the facility due to insufficient eastbound site distance. That comment further indicates that the property owner must obtain an access permit and construct a new driveway to provide access. A schematic representation of a new driveway was submitted at the hearing. Also, a comment was also received from the Fire Department that the new construction must comply with the Fire Code. A comment was re-

ceived from the Department of Environmental Protection and Resource Management (DEPRM), that the site was comply with the Forest Conservation Regulations and that soil evaluations must be conducted to determine the septic reserve area. Although there are public sewers in the area, apparently this property is not served by public sewer. A series of recommendations were also offered by the Office of Planning. Their comment requires that the Petitioners submit a compatibility recommendation for the proposed use. Also, the Office of Planning noted the requirements as set forth in Section 432 of the BCZR and stated that the project must comply with those conditions. Last, a lengthy comment was received from the Development Plans Review Division of the Office of Permits and Development Management. That comment also referenced the proposed new driveway and vehicular access to the site.

I am appreciative of the fact that the Petitioners do not desire to commit significant financial resources to this project until the Petition for Special Exception was considered and approved. For this reason, many of the issues raised within the ZAC comments have not been resolved. If adequately resolved, it appears that the proposed use on the subject property would be appropriate. The property is a large lot and appears capable of handling the new building addition. Moreover, the proposed use appears appropriate for the surrounding community.


Based upon the testimony and evidence offered, I will grant the Petition for Special Exception. However, I will impose significant conditions to ensure that the project is constructed and operated so as not to be detrimental to the health, safety or general welfare of the locale. Specifically, I will require the Petitioner to comply with all of the ZAC comments as highlighted above. Additionally, I shall restrict the use to permit the residency of not more than 12 senior citizens. Although 15 are

permitted by law, only 12 will be allowed, pursuant to this Order. In the future, upon a Petition for Special Hearing to amend this Order, that restriction could be eliminated or modified.

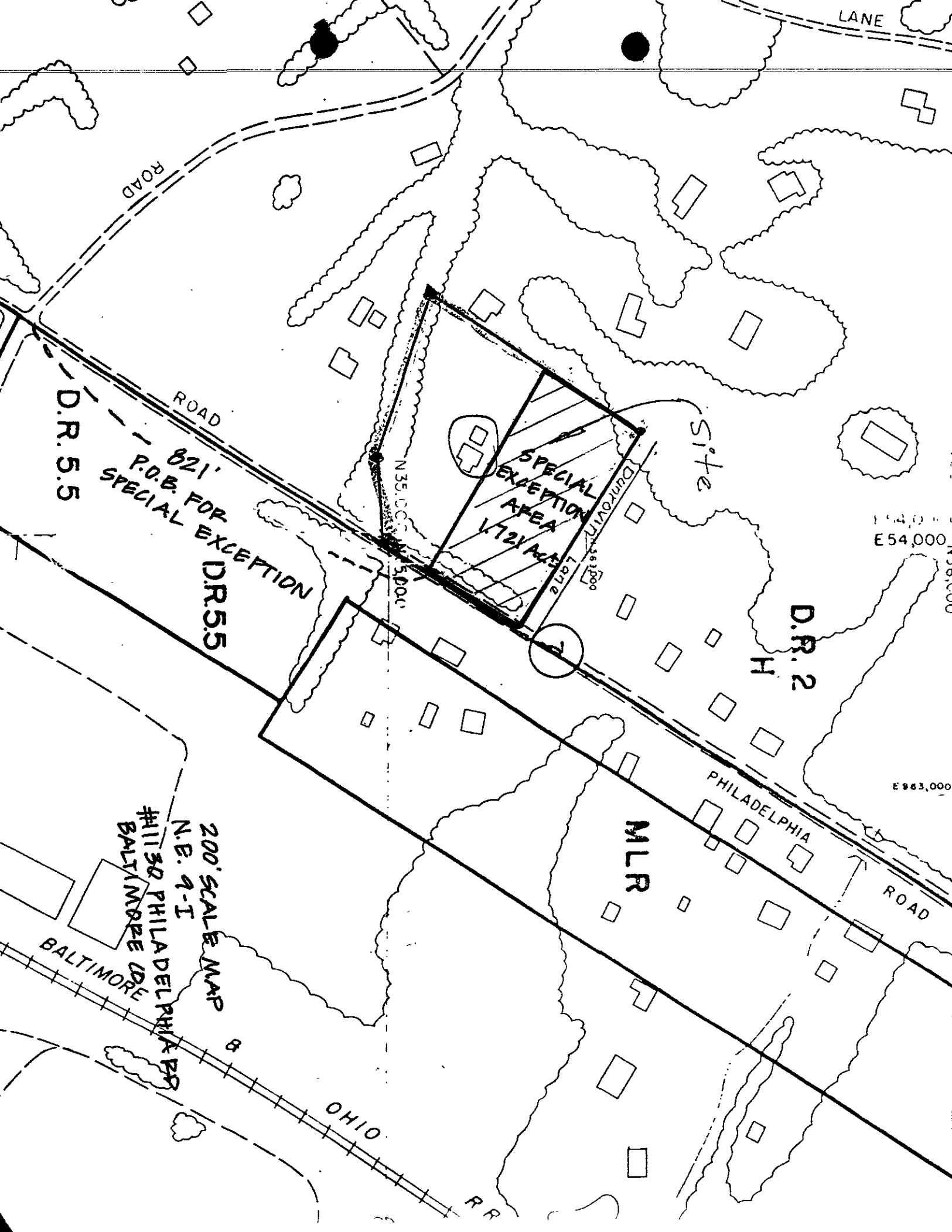
Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 20<sup>th</sup> day of October 1998 that, pursuant to the Petition for Special Exception, approval for a Class B Assisted Living Facility for the elderly to provide 12 beds in a newly constructed building which will adjoin an existing single family dwelling on a 3.5 acre lot, be and is hereby GRANTED, subject, however, to the following restrictions:

1. The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. The Petitioners shall comply with all of the ZAC comments issued in this case as noted above; namely, from the Development Plans Review Division, the Fire Department, the State Highway Administration, DEPRM and the Office of Planning.
3. The proposed Assisted Living Facility for this property shall not house more than 12 senior citizens.

  
LAWRENCE E. SCHMIDT  
Zoning Commissioner for  
Baltimore County

LES:mmm



LANE

ROAD

D.R. 5.5

ROAD

821' P.O.B. FOR SPECIAL EXCEPTION

D.R. 5.5

N 35.000° W 500.00' 1/4'

SPECIAL EXCEPTION AREA 1.721 ACRES

DUNROVIN 161200

Site

164000 E 54,000

D.R. 2

164000 E 963,000

PHILADELPHIA

MLR

ROAD

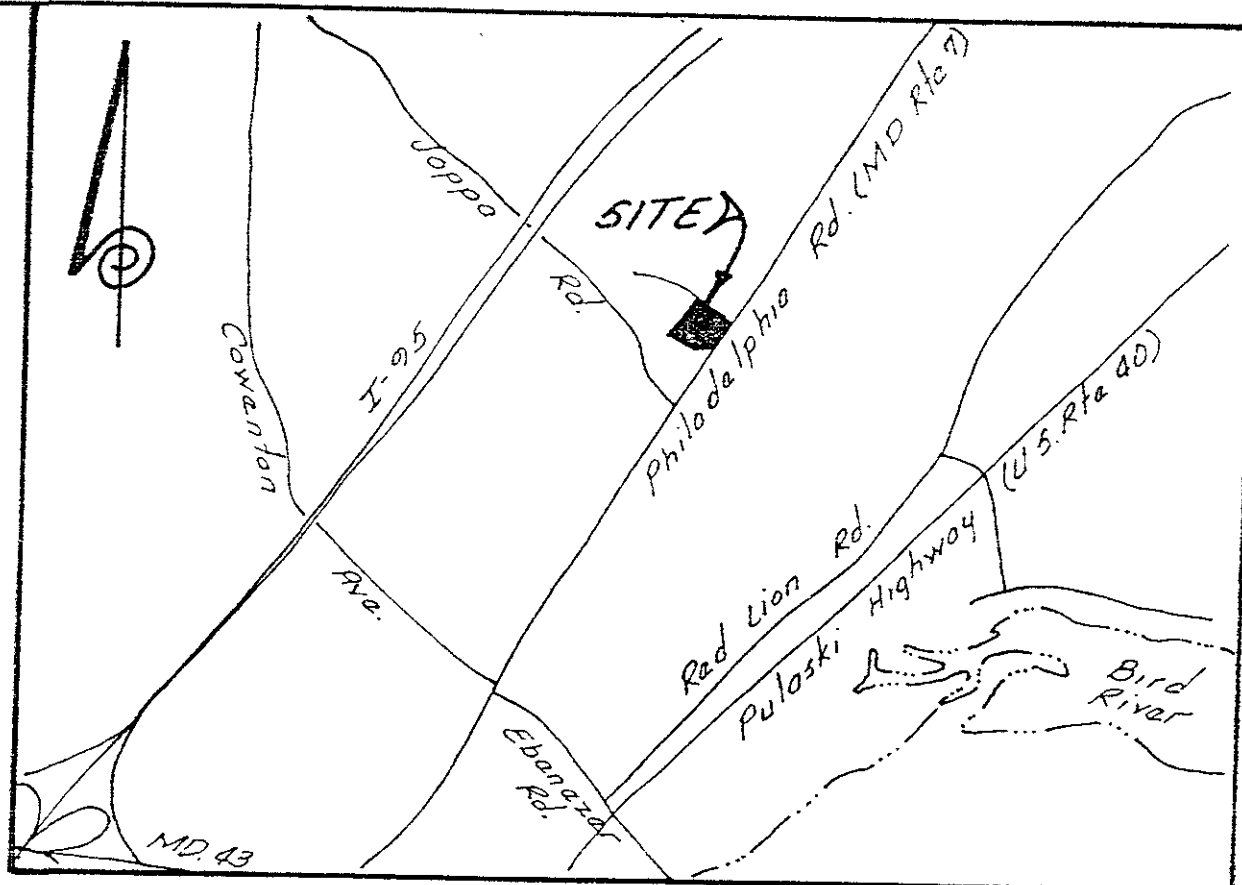
200' SCALE MAP  
N.E. 4-I  
#1130 PHILADELPHIA  
BALTIMORE

OHIO

R.R.



% Cross  
- Crown



### VICINITY MAP

Scale: 1" = 2000'

2 KING SPACE

POSTED  
4/26/04  
10 AM  
GP

need photo

2 KING DETAIL  
E 1" = 20'

11130 / 11132

Philadelphia Rd

Mrs Eklund said  
sign still posted 6/11/09

Wcz



### LOCATION INFORMATION

Councilmanic District: 5

Election District: 11

1" = 200' Scale Map # NE 9I

Zoning: DR2

Lot Size: 153,666 SF ± or 3.53 AC ±

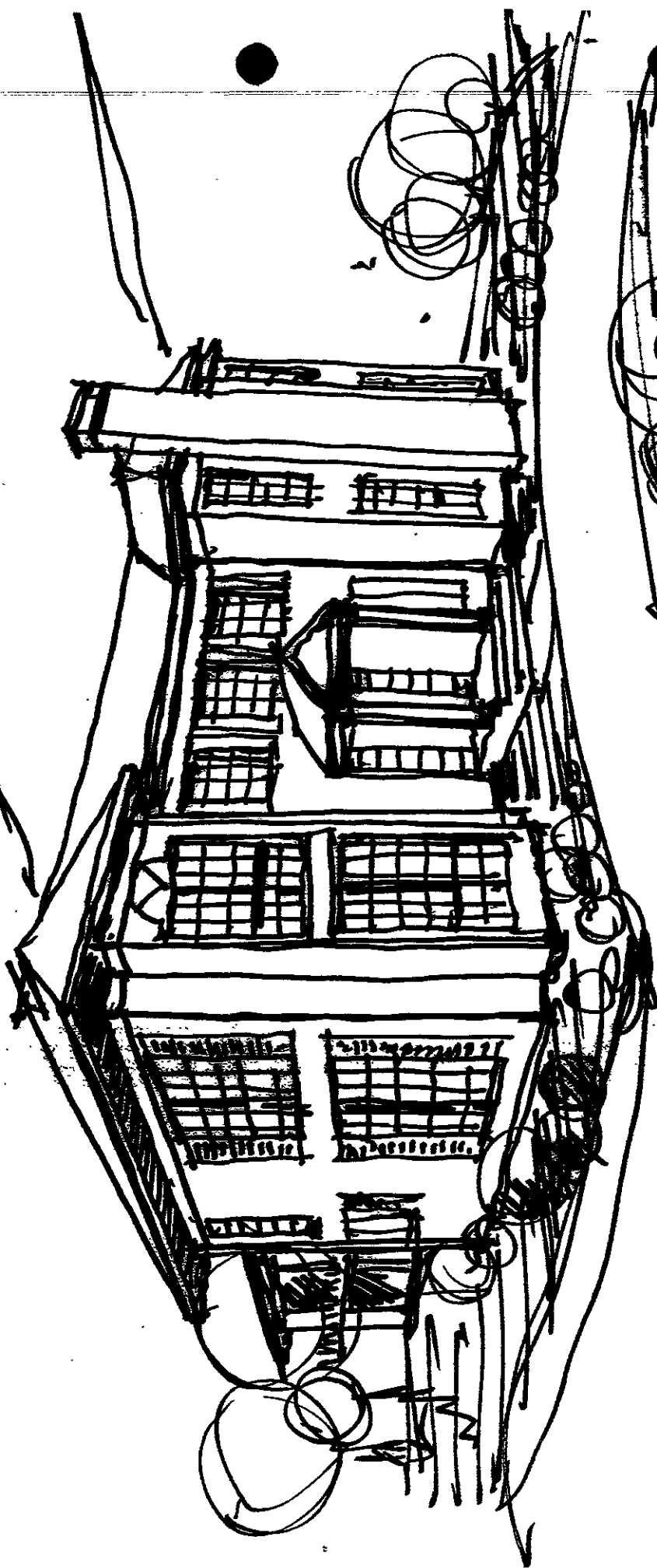
CLASS B ASSISTED LIVING FACILITY 74,965 SF ± OR 1.72 AC ±  
RESIDENTIAL LOT 76 TO 150' SE ± OF 1809 AC ±

	Public	Private
Sewer	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Water	<input checked="" type="checkbox"/>	<input type="checkbox"/>

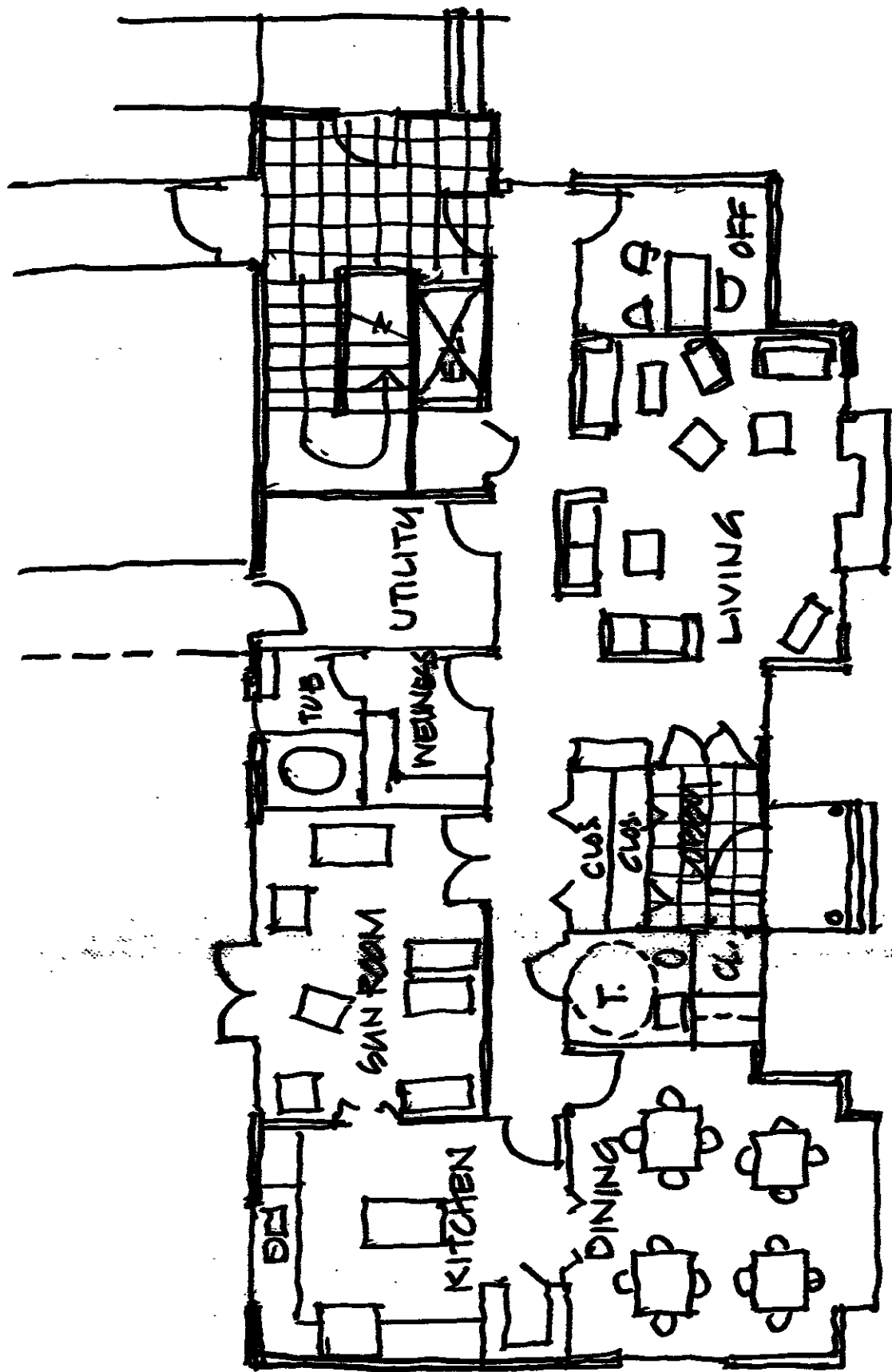
	Yes	No
Chesapeake Bay Critical Area	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Prior Zoning Hearings: 99-42-X  
\*ZONING CASE HAS EXPIRED

Zoning Office Use Only

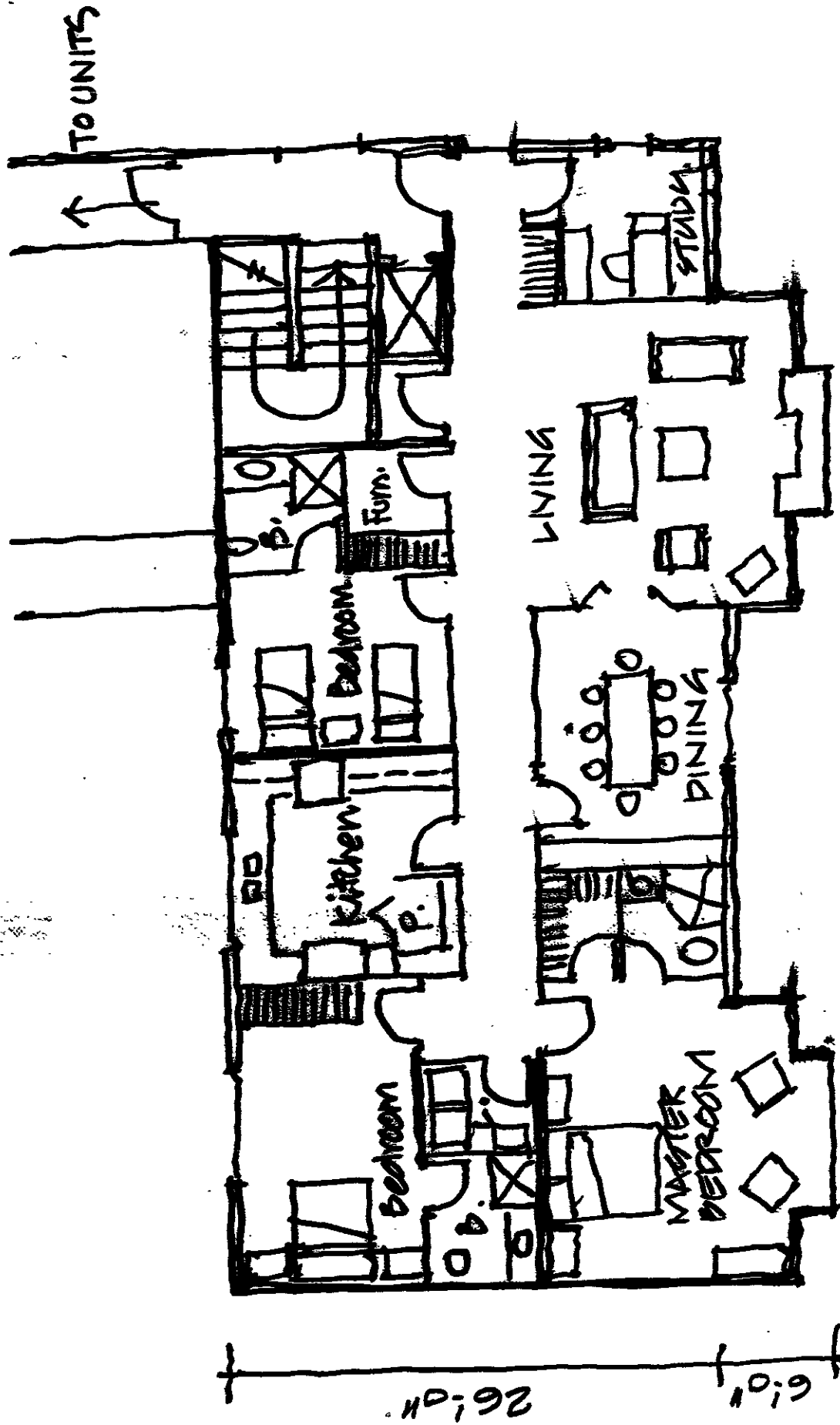


10/3 A



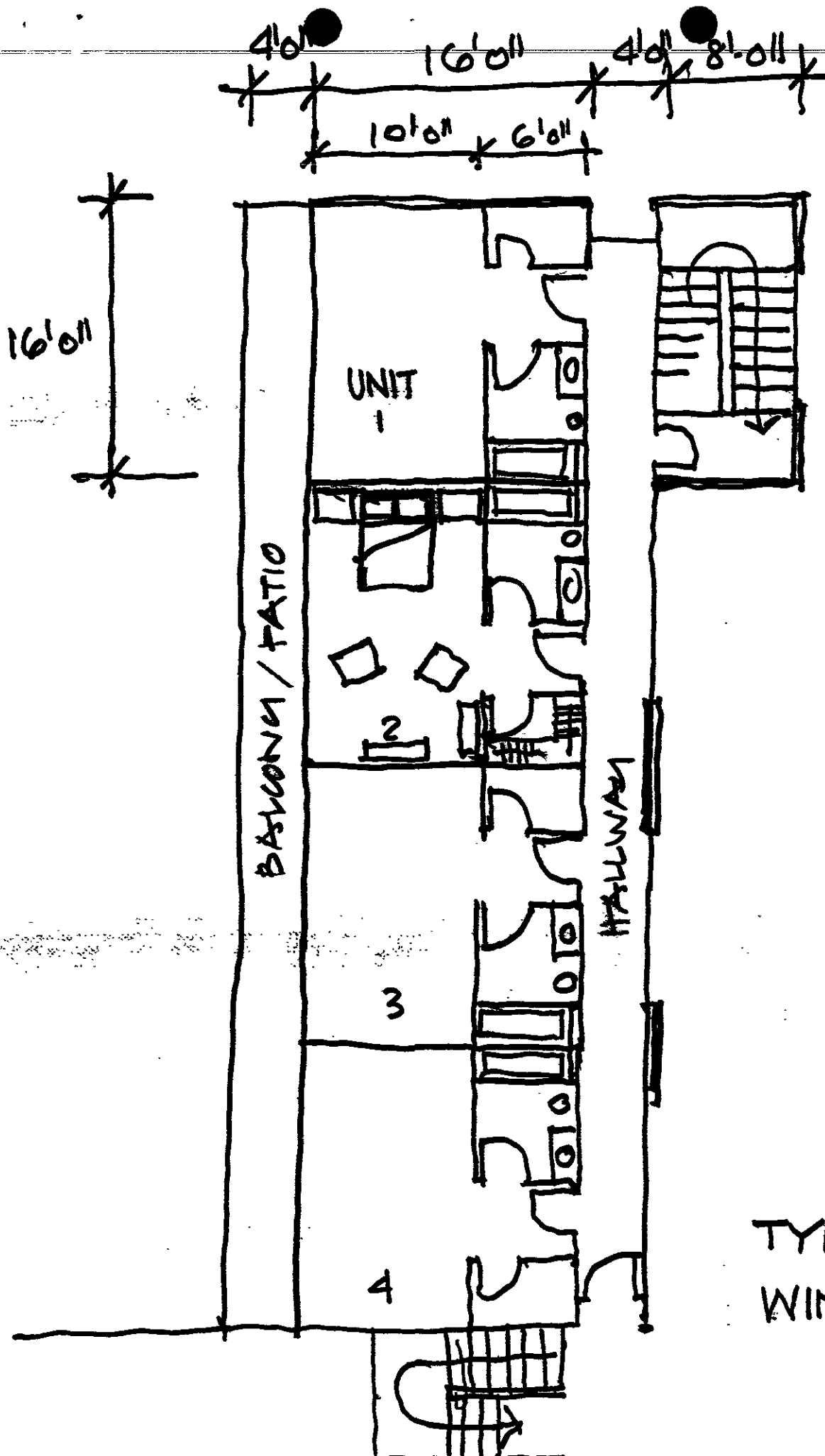
Ed 3B

GROUND FLOOR



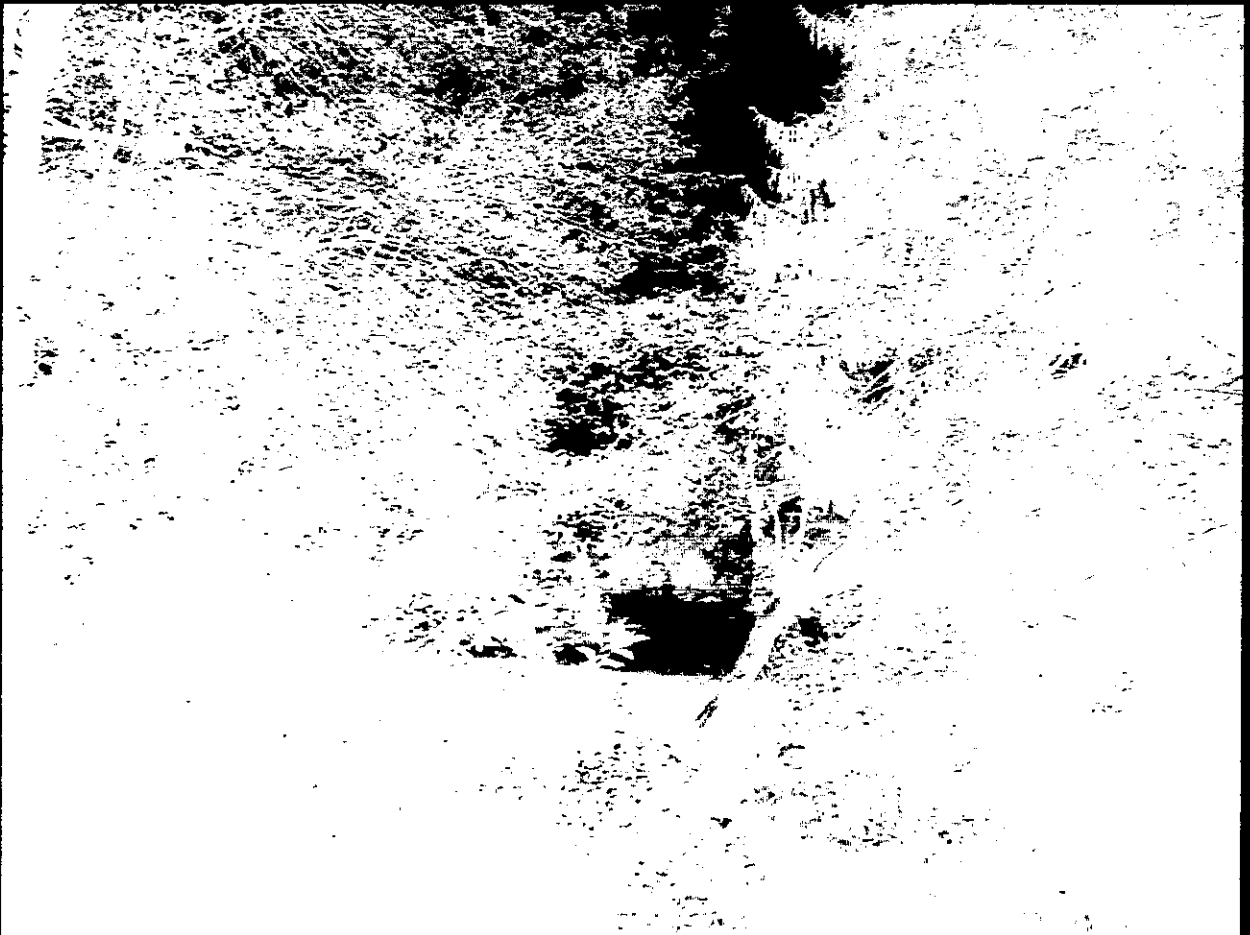
FIRST FLOOR (UPPER)

10/3/36

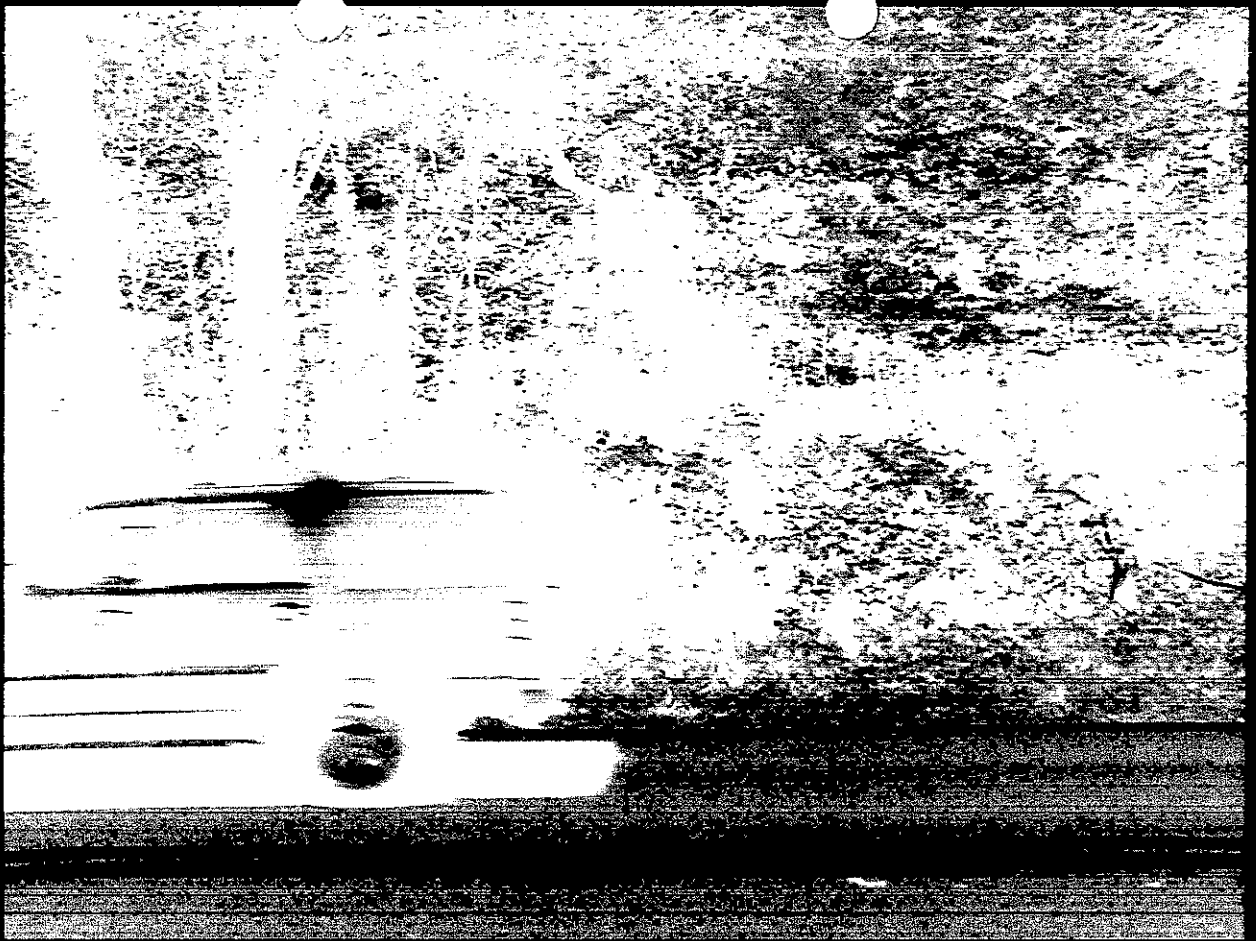


Red

TYPICAL  
WING.



Ref  
2A



Feb  
25



Red  
re





Subject  
house  
↖

Pet  
2D

